

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

11 The recommendation was filed with the Board on October 21, 2009. The Department filed a Motion with the Board on November 3, 2009, the day of the Board argument. Although the Department's motion was not timely filed pursuant to Fair Hearing Rule No. 1000.4B, the Board considered the Department's oral legal argument.

2. Petitioner was issued a bill for \$110 representing her share of the premium due for CHAP coverage for the month of September 2009.

3. On or about July 31, 2009, petitioner's daughter left her household. Petitioner reported the change in her household composition on or about July 31, 2009.

4. In a Notice of Decision dated August 5, 2009, the Department notified petitioner that she was eligible for VHAP as of that day.

5. Petitioner requested a fair hearing on or about August 7, 2009 to have the CHAP bill for September 2009 rescinded.

ORDER

The Department's decision is reversed.

REASONS

The Vermont Legislature created both VHAP and CHAP to provide health care coverage to uninsured Vermonters who meet certain eligibility criteria. W.A.M. §§ 4100 *et seq.* and 5900 *et seq.*

VHAP provides coverage to individuals whose income is less than 185 percent of the Federal Poverty Level. CHAP

provides coverage to individuals who do not qualify for VHAP provided their income is no more than 300 percent of the FPL.

Both VHAP and CHAP include premiums from the health care assistance unit as a condition of initial eligibility and continuing eligibility.<sup>2</sup> The amount of the premium is determined by the income at the time the premium bill was generated. W.A.M. § 4111.

In petitioner's case, the CHAP premium bill was generated prior to the change in her eligibility for VHAP and prior to the period intended for CHAP coverage.

The Department is saying that once the premium bill is generated, the premium for CHAP cannot be rescinded or applied towards the VHAP premium even though an assistance household is no longer eligible for CHAP.

The Department has pointed to the legislative history in support of their position. In the 2004 Appropriation Bill (Act 66 of 2003), the Legislature shifted the payment of premiums in Vermont's health care programs from retrospective to prospective. The purpose included adjusting the billing cycle to help recipients stay current in order to avoid delinquencies and termination of coverage. Sec.

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<sup>2</sup>In terms of VHAP, the household pays the premium to the State. In terms of CHAP, the household pays the premium to the State who, in turn, passes the household share and the State share to a private health insurer.

147(g)(1)(C). Coverage for a particular program is based upon payment of the premium for that program. Sec.

147(g)(5).

The problem with the Department's argument is that petitioner was not eligible for CHAP for September and would receive no CHAP benefit from payment of the premium. In addition, her eligibility switch to VHAP is based on a reduction of income meaning that she was asked to pay the higher CHAP premium although her VHAP premium is lower and in accord with her income.

The legislative intent is to create a system that enables applicants and recipients to maintain their eligibility. Both VHAP and CHAP are remedial programs. In this case, the Department can determine the VHAP premium and bill petitioner accordingly. The Department's decision is reversed consistent with the above decision. 3 V.S.A. § 3091(d).

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